

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CHARLES TERRELL JONES,

Defendant-Appellee.

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UNPUBLISHED  
November 10, 2005

No. 254939  
Wayne Circuit Court  
LC No. 04-001085-02

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

BERNARD CHAUNCEY MURPHY,

Defendant-Appellee.

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No. 254964  
Wayne Circuit Court  
LC No. 04-001085-02

Before: Gage, P.J., and Hoekstra, and Murray, JJ.

PER CURIAM.

In these consolidated cases, the prosecution appeals as of right from the circuit court's order dismissing charges against defendants. We affirm in part, reverse in part, and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendants were charged with carjacking, MCL 750.529a, armed robbery, MCL 750.529, possession of a short-barreled shotgun, MCL 750.224b, possession of a loaded long gun in a vehicle, MCL 750.227c, and possession of a firearm during the commission of a felony, MCL 750.227b. At the preliminary examination, the prosecutor presented evidence that the victim was delivering newspapers in Detroit at approximately 4:30 AM when a black pickup truck approached, someone from the truck pointed a sawed-off long gun at him and demanded that he not look in that direction, and told him to lie face down on the ground. Multiple assailants then threatened to shoot him, demanded money, searched him, and took his glasses and keys. The victim saw both the truck and his own car driving away. He called the police with his description of the truck and firearm, but he could not identify any of the assailants.

The police immediately responded to the area, spotted a black pickup truck, and followed it to a gas station. Four males emerged, one of whom went to the side of the station, and then the four returned to the truck and drove on. The police effected a traffic stop. Defendants were among those in the truck, with Murphy driving. The police checked the gas station where the truck had stopped, and discovered some shotgun shells in a garbage container and a sawed-off shotgun at the back side of the station.

The district court bound defendants over for trial, but the circuit court dismissed the charges against defendants. The circuit court reasoned that the evidence showed only that defendants were present when the crimes were committed, and there was no way to ascertain which of the truck's multiple occupants actually engaged in the assaultive conduct.

We review de novo a lower court's decision on a motion to quash and determine from the entire preliminary examination record whether the court abused its discretion when it found probable cause to bind the defendant over for trial. See *People v Orzame*, 224 Mich App 551, 557; 570 NW2d 118 (1997). "Probable cause exists where the court finds a reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious person to believe that the accused is guilty of the offense charged." *Id.* Where the evidence is conflicting, or otherwise leaves a reasonable doubt with respect to the defendant's guilt, the defendant should be bound over for trial for resolution of the issue by the trier of fact. *People v Goecke*, 457 Mich 442, 469-470; 579 NW2d 868 (1998); *People v Selwa*, 214 Mich App 451, 457; 543 NW2d 321 (1995).

"Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime." *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993). However, "[m]ere presence, even with knowledge that an offense is about to be committed or is being committed, is insufficient to show that a person is an aider and abettor." *People v Wilson*, 196 Mich App 604, 614; 493 NW2d 471 (1992).

The victim's description of a black pickup truck and a sawed-off long gun, and the discovery of such a truck immediately thereafter, plus the discovery of a sawed-off shotgun and shells at the gas station where the truck had briefly stopped, constituted solid circumstantial evidence that this truck was the one involved in the assault. However, nothing connected Jones with the assault beyond his mere presence in that truck. Accordingly, the circuit court correctly identified error in the district court's decision to bind Jones over for trial.

However, there was evidence that Murphy was driving the truck when the police stopped it. That Murphy was driving then is circumstantial evidence that he assumed the role of driver in general. The obvious inference from stopping the truck both for the assault, and then to jettison contraband, is that the driver was fully involved in those actions. Because Murphy's role as driver circumstantially links him to the crime beyond his mere presence in the truck, the circuit court erred in dismissing the charges against him. Accordingly, we hereby vacate that part of the circuit's court's order, and remand this case with instructions to reinstate the charges against Murphy.

Affirmed in part, reversed in part, and remanded. We do not retain jurisdiction.

/s/ Hilda R. Gage  
/s/ Christopher M. Murray